

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

NEWTON PARTNERS, LP,

Plaintiff,

vs.

**FUNDI FUELS, LLC, BRANDON D. PHILLIPS)
LIVING TRUST DATED AUGUST 8, 2005, and)
UNKNOWN OWNERS AND NON-RECORD)
CLAIMANTS,**

Defendants.

No. 19-cv-477-SMY-MAB

MEMORANDUM AND ORDER

Plaintiff Newton Partners, LP and Defendant Brandon D. Phillips Living Trust Dated August 8, 2005 (“Trust”), as the only parties that have appeared in the case to date, have filed a Stipulation for Dismissal with prejudice (Doc. 16) under Rule 41(a)(1)(A)(ii), seeking to dismiss the claims against the Trust only. A plain reading of Federal Rule of Civil Procedure 41(a) suggests that dismissal under this rule should be used only to dismiss an entire action (rather than a particular claim against a particular defendant). *See Taylor v. Brown*, 787 F.3d 851, 857 (7th Cir. 2015) (Rule 41(a) is “limited to dismissal of an entire action” and Rule 15(a) is the proper vehicle for “adding or dropping parties and claims”). Plaintiff must therefore file an amended complaint consistent with Rule 15 in order to drop the Trust as a party. Accordingly, the Stipulation (Doc. 16) is hereby **STRICKEN**.

IT IS SO ORDERED.

DATED: October 9, 2019



**STACI M. YANDLE
United States District Judge**